

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF ILLINOIS

CLIFFORD PATTON,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No.: 19-CV-946- GCS
	)	
JIMMIE POWELL and	)	
J & H TRUCKING, INC.,	)	
	)	
Defendant,	)	

**FIRST AMENDED COMPLAINT**

**Count I**  
**Patton v. Jimmie Powell**

NOW COMES Plaintiff, CLIFFORD PATTON, by his attorneys, Kirkpatrick  
Law Offices, P.C., and in support of their complaint against the defendant,  
JIMMIE POWELL, states as follows:

**JURISDICTION**

1. Plaintiff CLIFFORD PATTON is a resident and citizen of the State  
of Illinois in St. Clair County. Defendant JIMMIE POWELL is a resident and  
citizen of the State of Kansas in Allen County. Defendant J&H TRUCKING, INC.,  
is a Corporation licensed under the laws of Kansas with its principal place of  
business in Kansas in Sedgwick County. The amount in controversy, without  
interests and costs, exceeds the sum or value of \$75,000.00 as set forth in 28  
U.S.C. section 1332.

### **FACTUAL ALLEGATIONS**

2. That on or about April 3, 2019, and at all times mentioned herein, defendant Jimmie Powell was driving a semi-tractor and trailer westbound on Interstate highway 64 near milepost 60 in Washington County, Illinois as an employee or agent of J & H Trucking, Inc.

3. That at said time, J & H Trucking, Inc., was a corporation doing business in the State of Illinois engaged in the business of operating semi-tractor trailers by and through its agents or employees.

4. That on said date, Cliff Patton, was driving a dump truck for the Illinois Department of Transportation equipped with an electronic sign and arrow board as part of a maintenance crew that was repairing potholes in the highway.

5. Plaintiff's vehicle was the middle of three Illinois Department of Transportation trucks directing all westbound traffic to the left lane so that workers could repair the interstate roadway.

6. That defendant Jimmie Powell drove his semi-truck past the IDOT truck that was traveling behind plaintiff and continued driving in the right lane as he passed the dump truck driven by plaintiff.

7. That the vehicle driven by Jimmie Powell collided with the left side and rear of the vehicle driven by plaintiff.

8. The aforementioned collision was proximately caused by one or more of the following negligent acts or omissions on the part of this defendant, Jimmie Powell:

- a.) Failed to keep his semi-tractor and trailer under proper control in order to avoid colliding with plaintiff's truck;

- b.) Failed to keep a proper lookout for other vehicles on the roadway including the vehicle driven by plaintiff;
- c.) Failed to reduce the speed of his semi-tractor trailer to avoid an accident in violation of the Illinois statute 625 ILCS 5/11-601(a); and
- d.) Failed to drive his semi-truck into the left lane of traffic when passing an authorized vehicle engaged in work upon a highway in violation of Illinois statute 625 ILCS 5/11-908(a).

9. That as a direct and proximate result of the foregoing acts or omissions on the part of the defendant, plaintiff has suffered serious and permanent injuries. He has endured pain and suffering and will in the future endure great pain and suffering. He has and will endure the loss of a normal life and enjoyment of life. He has become liable for large amounts of medical expenses and will in the future become liable for large amounts of medical expenses in being treated for his injuries. He has incurred lost wages and income and will in the future incur lost wages and income all to his detriment in a large amount.

WHEREFORE, Plaintiff prays for a judgment against the Defendant, Jimmie Powell, in amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00) together with costs of suit and any other relief This Court deems justified.

### **Count II**

#### **Patton v. J & H Trucking, Inc**

NOW COMES the plaintiff, CLIFFORD PATTON, by and through his attorneys, KIRKPATRICK LAW OFFICES P.C., and in support of their complaint against the defendant, J & H TRUCKING INC., states as follows:

1. Plaintiff repeats and re-alleges paragraphs 1 through 7 of Count I to be incorporated as paragraphs 1 through 7 of Count II.

8. That the aforementioned collision was proximately caused by one or more of the following negligent acts or omission on the part of this defendant, its agents or servant:

- a.) Failed to keep its semi-tractor and trailer under proper control in order to avoid colliding with plaintiff's truck;
- b.) Failed to keep a proper lookout for other vehicles on the roadway, including the vehicle driven by plaintiff;
- c.) Failed to reduce the speed of its semi-tractor trailer to avoid an accident in violation of Illinois statute 625 ILCS 5/11-601(a); and
- d.) Failed to drive its semi-truck into the left lane of traffic when passing the vehicle driven by plaintiff in violation of Illinois statute 625 ILCS 5/11-908(a).

9. That as a direct and proximate result of the acts on the part of the Defendant, its agents or servants, Plaintiff has suffered serious and permanent injuries. He has endured a great deal of pain and suffering and will in the future endure a great deal of pain and suffering. He has and will endure the loss of a normal life and enjoyment of life. He has become disfigured. He has become liable for large amounts of medical expenses and will in the future become liable for large amounts of medical expenses. He has in the past incurred lost wages and income and will in the future incur further lost wages and income all to his detriment in a large amount.

WHEREFORE, Plaintiff prays for a judgment against the Defendant, J & H Trucking, Inc., in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00), plus costs.

Respectfully submitted,

By: /s/ Eric Kirkpatrick  
Eric Kirkpatrick, # 06207286  
KIRKPATRICK LAW OFFICES, P.C.  
#3 Executive Woods Court, #100  
Belleville, Illinois 62226  
Telephone: (618) 239-6070  
Fax: (618) 239-6080  
***Attorney for the Plaintiff,***  
***Clifford Patton***